

SENATE, No. 176

STATE OF NEW JERSEY

212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

Sponsored by:

Senator JOSEPH V. DORIA, JR.

District 31 (Hudson)

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

SYNOPSIS

Amends wrongful death act to expand damages available.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 5/15/2007)

1 AN ACT concerning death by wrongful act and amending
2 N.J.S.2A:31-5.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. N.J.S.2A:31-5 is amended to read as follows:

8 2A:31-5. In every action**[brought]** brought under the provisions
9 of this chapter the jury may **[give]** award such damages as they
10 shall deem fair and just with reference to the pecuniary injuries
11 resulting from such death, together with the hospital, medical and
12 funeral expenses incurred for the deceased, to **[the persons entitled**
13 **to any intestate personal property of the decedent]** those members
14 of the decedent's family who suffer damages by reason of the death
15 of the decedent.

16 "Family" for the purposes of this section shall be defined as the
17 spouse, parent, natural or adopted child, grandparent or grandchild
18 or sibling of the decedent.

19 Damages shall consist of pecuniary loss. In addition, damages
20 may be recovered hereunder for loss of society, companionship,
21 comfort, protection, marital care, parental care, filial care, attention,
22 advice, counsel, training, guidance or education, where applicable.

23 Loss of the special relationship between and among spouses,
24 parents, children and siblings shall form a basis for the award of
25 damages recoverable hereunder. Loss of such relationship may
26 include consideration of mental anguish and emotional pain and
27 suffering only in the case of a surviving spouse, child, father or
28 mother, or persons standing in loco parentis to the deceased person
29 or to whom the deceased stood in loco parentis at the time of the
30 injury which caused the death of the deceased or in the alternative
31 surviving brothers and sisters. Where the deceased was an
32 unemancipated minor child at the time of the injury which resulted
33 in death, damages to the parents may be based on the loss of the
34 pecuniary investment of the parents, including the costs of birth and
35 rearing the child.

36 (cf: P.L.1967, c.307)

37

38 2. This act shall take effect immediately and shall apply to all
39 causes of action arising on or after the effective date of the act.

40

41 STATEMENT

42

43 Wrongful death statutes establish a cause of action for the wrong
44 done to an individual's beneficiaries when that individual dies as the
45 result of the wrongful conduct of another person.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 Under present law, in a wrongful death action damages are
2 recoverable for pecuniary loss. This bill would expand the type of
3 damages for which one may bring suit to include loss of society,
4 companionship, comfort, protection, marital care, parental care,
5 filial care, attention, advice, counsel, training, guidance or
6 education. Also, damages in wrongful death actions may be
7 brought for loss of a special relationship between and among
8 spouses, parents, children and siblings. Loss of companionship
9 may include consideration of mental anguish and emotional pain
10 and suffering only in the case of a surviving spouse, child, parent or
11 in the alternative, surviving siblings. In the case of a minor child,
12 loss of pecuniary investment by a parent is also recoverable.